

## UNITED STATES PATENT AND TRADEMARK OFFICE



 $\mathcal{A}$ 

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/909,557	07/20/2001	Jean M. Beaupre	END-778	8228	
27777	7590 02/11/2004		EXAMINER		
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA			DAVIS, DANIEL J		
			ART UNIT	PAPER NUMBER	
	WICK, NJ 08933-7003		3731		
			DATE MAILED: 02/11/2004	15	

Please find below and/or attached an Office communication concerning this application or proceeding.

r 1		Application No.	Applicant(s)			
Office Action Summary		09/909,557	BEAUPRE, JEAN M.			
		Examiner	Art Unit			
		D. Jacob Davis	3731			
Period fo		nication appears on the cover sheet w	th the correspondence address -	-		
THE - Exte after - If the - If NC - Failu Any	MAILING DATE OF THIS COMMUN nsions of time may be available under the provision SIX (6) MONTHS from the mailing date of this come period for reply specified above is less than thirty (0) period for reply is specified above, the maximum is the toreply within the set or extended period for reply within the set or extended period for repletations.	s of 37 CFR 1.136(a). In no event, however, may a r	eply be timely filed  by (30) days will be considered timely.  ITHS from the mailing date of this communical  ANDONED (35 U.S.C. § 133).	tion.		
Status						
1)⊠	Responsive to communication(s) fil	ed on 22 August 2003.				
2a)□	This action is FINAL.	2b)⊠ This action is non-final.				
3)						
Disposit	ion of Claims		•			
5)□ 6)⊠ 7)⊠	Claim(s) <u>21-34</u> is/are pending in the 4a) Of the above claim(s) is/are allowed.  Claim(s) <u>21-27 and 30-34</u> is/are rej  Claim(s) <u>28 and 29</u> is/are objected  Claim(s) are subject to restr	are withdrawn from consideration. ected. to.	·			
Applicat	ion Papers					
10)⊠	Applicant may not request that any obj Replacement drawing sheet(s) including	he Examiner.  1 is/are: a)⊠ accepted or b)□ object ection to the drawing(s) be held in abeyar g the correction is required if the drawing to by the Examiner. Note the attache	nce. See 37 CFR 1.85(a). (s) is objected to. See 37 CFR 1.12			
Priority (	under 35 U.S.C. § 119					
a)	<ul> <li>□ All b) □ Some * c) □ None of:</li> <li>1. □ Certified copies of the priority</li> <li>2. □ Certified copies of the priority</li> <li>3. □ Copies of the certified copies application from the Internation</li> </ul>	n for foreign priority under 35 U.S.C. of the priority documents have been received.  If documents have been received in A softhe priority documents have been onal Bureau (PCT Rule 17.2(a)).  If the certified copies not the certified copies not the formula is the certified copies.	Application No received in this National Stage			
2) Notice 3) Infor	ot(s) Dee of References Cited (PTO-892) Dee of Draftsperson's Patent Drawing Review ( mation Disclosure Statement(s) (PTO-1449 of the No(s)/Mail Date 13.	PTO-948) Paper No(	Summary (PTO-413) s)/Mail Date nformal Patent Application (PTO-152) 			

Application/Control Number: 09/909,557

Art Unit: 3731

## **DETAILED ACTION**

## Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

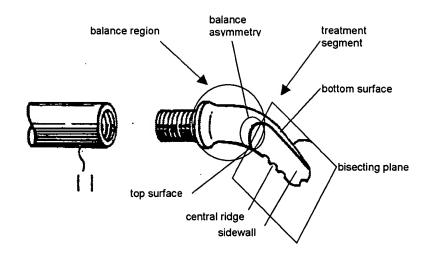
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-27 and 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Idemoto (EP 0 456 470). Idemoto discloses a curved ultrasonic surgical end effector (Fig. 6B) comprising a concave treatment segment defining a first length and a central ridge contiguous with and extending substantially along the first length. (A figure illustrating the corresponding elements is found on page 3). A plane located longitudinally along the treatment segment bisects the central ridge and the bottom surface of the device. The bottom is convex while the top is concave. Located on both side walls is a balance asymmetry. Because the balance asymmetries have more material toward the edges of the device and less in the middle, the asymmetries will counter torque.

Regarding claims 25-27, although Idemoto fails to disclose the balance ratio, he does disclose the necessary features including balancing features, concavity, and a ridge. Therefore, the device inherently has a balance ratio of less than 1:200.

Application/Control Number: 09/909,557

Art Unit: 3731



## Allowable Subject Matter

Claims 28 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to disclose or suggest all of the limitations of claim 28 including the asymmetry surface being substantially perpendicular to the plane of symmetry. The prior art fails to disclose or suggest all of the limitations of claim 29 including, "the first balance asymmetry being shorter than the second balance asymmetry."

Application/Control Number: 09/909,557

Art Unit: 3731

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to D. Jacob Davis whose telephone number is (703) 305-

1232. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Michael J. Milano can be reached on (703) 308-2496. The fax phone

number for the organization where this application or proceeding is assigned is 703-

872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

DJD

February 5, 2004

MICHAEL J. MILANO

SUPERVISORY PATENT EXAMINER

Page 4

TECHNOLOGY CENTER 3700